

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MICHAEL L. FOGLE,)	
)	
Petitioner,)	
)	
v.)	No. 4:07CV204 JCH
)	
ALAN BLAKE,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on Fogle's petition for writ of habeas corpus under 28 U.S.C. § 2254. The petition shall be summarily dismissed.

Petitioner is a civilly committed resident of the Missouri Sexual Offender Treatment Center, and he is currently awaiting trial on whether he is a sexually violent predator (SVP) under the Missouri Sexually Violent Predators Act, Mo. Rev. Stat. § 632.480 - 632.513. Petitioner seeks an order declaring that the Missouri Sexually Violent Predators Act is unconstitutional. Additionally, petitioner seeks immediate release from pretrial detention.

On the face of the petition, it is clear that Fogle has not exhausted available state remedies.¹ As a result, the petition will be summarily denied. See 28 U.S.C. § 2254(b); Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts.

¹The Court notes that this is petitioner's fourth attempt to obtain a writ of habeas corpus from his current detention without exhausting available state remedies. See Fogle v. Blake, 4:05CV2236 MLM (E.D. Mo.); Fogle v. Blake, 4:06CV107 RWS (E.D. Mo.); 4:06CV900 RWS (E.D. Mo.).

Accordingly,

IT IS HEREBY ORDERED that Fogle's petition for writ of habeas corpus under 28 U.S.C. § 2254 is **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that all pending motions are denied as moot.

An order of dismissal shall accompany this Memorandum and Order.

Dated this 9th Day of February, 2007.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE